REMARKS

Claims 1 and 3-12 are pending in this application. Claims 1 and 11-12 are independent. In light of the amendments and remarks included herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1 and 3-12 under 35 U.S.C. §102(b) as being anticipated by *Shanton* (USP 5,680,452). Applicants respectfully traverse this rejection.

Preliminary Comments

In support of the Examiner's rejection of all of the claims, the Examiner cites to entire disclosure of *Shanton* to support his assertion that the claims are anticipated. The Examiner fails to provide any specific references in the *Shanton* reference that provide Applicants with an understanding of what portions of the reference the Examiner is relying upon to establish *prima facia* anticipation. As such, Applicants can only guess as to how the Examiner is interpreting the reference. Should the Examiner maintain his rejection of the claims, Applicants respectfully request the Examiner provide specific citations to *Shanton* that clearly identify what elements and portions of the *Shanton* reference he is relying upon to support the claim rejections so that Applicants may have sufficient opportunity to respond to Examiner's assertions in a new, non-final Official Action.

Prior Art Rejection

In their previous reply, Applicants amended the claims to include the feature that the encryption is performed based on a determination result of the storage form determination means determining whether the storage form is volatile or non-volatile. In support of his rejection, the Examiner asserts that *Shanton* discloses this claim element citing to:

Abstract, col. 3, lines 51 - col. 14, line 40, whereas the received objects defined across all types of data forms and associated storage forms (i.e., col. 3, lines 51-col. 4,

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lines 65, such that properly specified kinds of information flowing to appropriate locations; 'kinds' encompasses multimedia (non-volatile DVD/CD or volatile resident RAM when being processed) storage forms) that are further selectively determined to be encrypted, both in a serial object manor, or in an encapsulated/inheritance/access controlled object data structure, clearly encompasses the claimed limitations as broadly interpreted by the examiner.

It appears from the above that the Examiner essentially relies on the entire disclosure of *Shanton* to reject this claim element. Applicants respectfully disagree with the Examiner's interpretation of the teachings of *Shanton*. The disclosure of *Shanton* is directed to a distributed cryptographic object method that includes a standard object tracking mechanism that is used to allow users to distribute to other individuals multiple encrypted objects embedded in a single encrypted object. By effecting compartmentalization of every object by label attributes and algorithm attributes, multi-level multimedia security is achieved (Abstract). At most, *Shanton* discloses selectively encrypting objects based on the user(s) authorized to decrypt the object. However, Applicants respectfully submit that there is no disclosure that is directed to determining whether or not to encrypt the received data based on whether the storage form determination means determines that the storage form is volatile or non-volatile.

As *Shanton* fails to teach or suggest all of the claim elements, Applicants respectfully submit that *Shanton* fails to anticipate the invention of claim 1. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 3-10 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1. It is further respectfully submitted that claim 11 includes elements similar to those discussed above with regard to claim 1 and thus claim 11 is allowable for the reasons set forth above with regard to claim 1.

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In support of the Examiner's rejection of claim 12, the Examiner asserts that *Shanton* discloses necessity determination means for determining whether or not received data needs to be encrypted and encryption means for encrypting data which is determined as having to be encrypted before being stored in a storage apparatus to output. Applicants respectfully disagree with the Examiner's characterization of this reference.

The disclosure of *Shanton* is directed to a distributed cryptographic object method that includes a standard object tracking mechanism that is used to allow users to distribute to other individuals multiple encrypted objects embedded in a single encrypted object. By affecting compartmentalization of every object by label attributes and algorithm attributes, multi level multi media security is achieved (Abstract).

The disclosure of *Shanton* relates to computer security systems and means of restricting access to data. In *Shanton*, data encrypted can be decrypted and used by the user who has access authority. When data encrypted by cryptographic technology is to be used, the encrypted data is only used by those individuals who are designed to have access to the encrypted data.

In contrast, the present invention as set forth in claim 12 recites an encryption processing apparatus comprising necessity determination means for determining whether or not received data needs to be encrypted. Based upon the determination made at the necessity determination means, the encryption processing apparatus includes an encryption means for encrypting data which is determined as having to be encrypted before being stored in a storage apparatus to output. *Shanton* fails to teach or suggest these claimed elements. *Shanton* is merely directed to restricting access to the encrypted data. As *Shanton* fails to teach or suggest all of the claimed elements, Applicants respectfully submit that claim 12 is not anticipated by *Shanton*. It is respectfully requested that the outstanding rejection be withdrawn.

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Conclusion

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: March 20, 2007

Respectfully submitted,

By

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Registration No.: 19,382
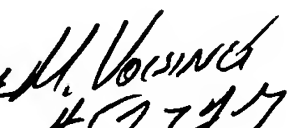BIRCH, STEWART, KOLASCH & BIRCH, LLP
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